

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.)	
)	
Plaintiffs,)	
)	
vs.)	05-CV-0329 TCK-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**COBB-VANTRESS, INC.'S SECOND AMENDED RESPONSE TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES**

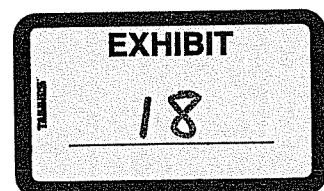
Pursuant to the Court's Order dated December 7, 2007 (Dkt. No. 1409), Defendant COBB-VANTRESS, INC. (hereinafter referred to as "Defendant" or "Cobb"), submits its Second Amended Response to subsection (d) of Plaintiffs' Interrogatory No. 1. This Second Amended Response supplements all prior responses to subsection (d) of Plaintiffs' Interrogatory No. 1.

INTERROGATORIES

INTERROGATORY NO. 1: For each of your poultry growing operations in the IRW since 1952, please provide the following information:

- a. name and physical location of the operation;
- b. dates of operation;
- c. type of operation (breeder, broiler, layer, etc.);
- d. number of birds (aggregated annually) at each location; and,
- e. name of the owner and operator.

RESPONSE TO INTERROGATORY NO. 1(d): Cobb objects to Interrogatory No. 1



as it is overly broad in scope and time and, therefore, overly burdensome. Cobb objects to the Plaintiffs' definition of "Defendant" as it is overly broad and includes within its scope "Contract Growers." Cobb submits this answer and response for itself and not for any other person or entity. Subject to and without waiving these objections, Cobb responds to Interrogatory No. 1(d) as follows.

Cobb does not possess information sufficient to answer Interrogatory No. 1(d). Cobb has not historically identified contract poultry growing operations by the watershed and does not in the regular course of business track or report bird production by watershed nor does Cobb calculate or record bird production on an aggregated annual bases as part of its regular business practices. Accordingly, Cobb does not know the total number of birds raised on farms under contract with it in the IRW on an annual basis.

In order to comply with this Court's Order dated December 7, 2007 (Dkt. No. 1409), Cobb has estimated the total number of birds raised each year from 2000 through 2007 on poultry growing operations under contract with Cobb in the IRW. The following steps, assumptions and calculations were required to arrive at this estimate. First, Cobb identified all poultry growing operations between January 2000 and December 2007 believed to be or to have been located in the IRW. Second, Cobb retrieved from its [name of grower database] the total reported number of birds placed at each identified poultry growing operation each year from 2000 through 2007. Third, because birds are moved from pullet farms under contract with Cobb to hen farms under contract with Cobb, it is necessary to adjust the number of hens placed on Cobb poultry growing operations to eliminate the possibility of counting the same bird twice. It would be overly burdensome to actually track the movement of all Cobb pullets in the IRW over the past seven years from pullet operations to hen operations. To do so would require manual

review of each flock profile report generated with respect to poultry growing operations located in the IRW during the relevant time period. Flock profile reports are generated on a weekly basis, and the number of reports to be reviewed would be extremely large. Therefore, a reasonable estimated adjustment to the number of hens placed was made through the reduction of the total number of hens placed onto poultry growing operations in the IRW by the percentage of Cobb pullet farms located in the IRW as compared to the total number of Cobb pullet farms.

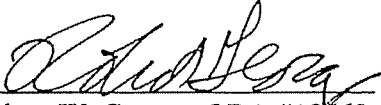
Subject to the foregoing qualifications and without waiving its objection, Cobb provides the following estimate of the aggregated total number of pullets and hens placed annually on poultry growing operations under contract with Cobb in the IRW.

<u>Year</u>	<u>Total Number of Birds</u>	<u>Year</u>	<u>Total Number of Birds</u>
2000	1,287,974	2004	1,250,237
2001	1,189,358	2005	1,243,562
2002	1,279,798	2006	1,244,481
2003	1,237,193	2007	1,285,580

The above figures are estimates only. The reliability and error rate in these estimates is unknown at this time. Cobb reserves the right to challenge these estimates as unreliable if presented in court and further reserves the right to revise or supplement these estimates if additional information is obtained or a more reliable estimation methodology is identified.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that on the 7th day of January 2008, I electronically transmitted the foregoing documents to following:

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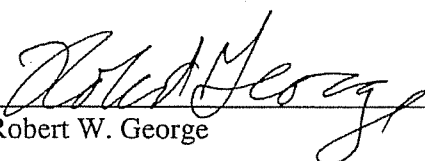
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I also hereby certify that I served the foregoing documents by United States Postal Service, proper postage paid, on the following:

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JAN-07-2008 13:13

COBB VANTRESS

479 524 6652 P.02

VERIFICATION

STATE OF ARKANSAS }
 } §§
COUNTY OF BENTON }

I, Leasea Butler, being duly sworn on oath, state that I have read Cobb-Vantress, Inc.'s Second Amended Response to Plaintiffs' First Set of Interrogatories and that the facts and matters contained therein are true and correct to the best of my knowledge, information, and belief.

Leasea Butler
Leasea Butler

ACKNOWLEDGEMENT

STATE OF ARKANSAS }
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COUNTY OF BENTON }

On this date, Leasea Butler did appear before me, the undersigned Notary Public and executed the foregoing document of his own free will and volition, and for the purposes stated therein.

Subscribed and sworn before me, the undersigned Notary Public, within and for the above County and State, this the 7th day of January, 2008.

Donna S. Lambert
Notary Public

My commission expires:

10/4/09